

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 2967 of 2003

Jagannath Krishna Narvekar ..Petitioner

VS.

1. Kamal Musa Pandhare & Ors. ..Respondents

Shri Arfana EA Sait for petitioner
Shri S.B.Shetye for respondents.

CORAM: S.B.MHASE J.
26th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. Perused the order dated 10th December, 20023 passed by the II Joint Civil Judge, Jr.Dn., Ratnagiri below Exh.68 in Reg. Civil Suit No.139 of 2000 which is under challenge. The petitioner has filed application Exh.18 and, therefore, the petitioner prayed that the issue as to whether the suit against the defendants is tenable in law be framed as a preliminary issue. Since the said application is rejected by the above referred order the petitioner has approached to this Court. The issue in respect of maintainability of the suit is already framed as issue no.7 as can be seen from Exh.52. The suit is for partition and the petitioner and respondents are joint owners of the suit property. The written statement has been placed on record to demonstrate elaborately as to how and why the suit is not maintainable. However, in view of provisions of order 14 all the issues are required to be

adjudicated at the one and same time in order to avoid multiplicity of the litigation. Therefore, the Trial Court has rightly rejected the application. No interference is called for. Interim order passed is hereby vacated. Petition is rejected.

(S.B.MCHASE J.)